

1 Ambika Kumar, WSBA #38237  
2 Sara A. Fairchild, WSBA #54419  
DAVIS WRIGHT TREMAINE LLP  
920 Fifth Avenue, Suite 3300  
3 Seattle, WA 98104-1610  
Telephone: 206.622.3150  
4 Facsimile: 206.757.7700

5 John A. DiLorenzo (*pro hac vice*)  
DAVIS WRIGHT TREMAINE LLP  
6 560 SW 10<sup>th</sup> Ave, Suite 700  
Portland, OR 97205  
7 Telephone: (503) 241-2300  
8 Fax: (503) 778-5299

10  
11 IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

12 FAYE IRENE GUENTHER,  
13 an individual,

## Plaintiffs,

15 v.  
16 JOSEPH H. EMMONS, individually,  
17 AND OSPREY FIELD CONSULTING  
LLC, a limited liability company.

## Defendants

No. 2:22-cv-00272-TOR

**REPLY IN SUPPORT OF  
DEFENDANTS' MOTION  
REGARDING SEALING  
PURSUANT TO FEBRUARY  
14, 2024, ORDER (ECF NO. 38)**

**06/03/2024  
Without Oral Argument**

**REPLY IN SUPPORT OF DEF'S  
MOTION REGARDING SEALING**

Davis Wright Tremaine LLP  
LAW OFFICES  
920 Fifth Avenue, Suite 3300  
Seattle, WA 98104-1610  
206.622.3150 main • 206.757.7700 fax

1 Defendants Joseph H. Emmons and Osprey Field Consulting LLC  
 2 respectfully submit this Reply in support of their Motion Regarding Sealing (ECF  
 3 No. 49) and request the Court unseal the documents filed at ECF Nos. 51, 51-1, 51-  
 4 2, 51-3, 51-4, 51-5, 51-6.

5 On May 3, 2024, Defendants filed under seal several documents they rely on  
 6 to support their Response to Plaintiff's Motion to Dismiss Under 41(a)(2) (ECF No.  
 7 47). *See* ECF Nos. 51, 51-1, 51-2, 51-3, 51-4, 51-5, 51-6 (sealed documents); ECF  
 8 No. 49 at 3 (describing sealed documents). Defendants filed these documents under  
 9 seal pursuant to Paragraph 6 of the Court's February 14, 2024, Order Granting  
 10 Defendants' Motion to Compel (ECF No. 38) ("Order") because the documents may  
 11 be subject to the non-disclosure agreements at issue in that Order ("NDAs"), and at  
 12 the time of filing, not all parties to the NDAs had consented to Defendants filing the  
 13 documents publicly. *See* ECF No. 49 at 4; ECF No. 50 ¶ 6. The same day,  
 14 Defendants filed a Motion Regarding Sealing, asserting Defendants do not believe  
 15 that the sealed documents should remain under seal and asking the Court to unseal  
 16 them absent a showing by the parties to the NDAs of "compelling reasons" to keep  
 17 them under seal. *See* ECF No. 47 at 1, 4-6. Defendants served a copy of the Motion  
 18 Regarding Sealing and supporting documents on all parties to the NDAs via email  
 19 and mail. Declaration of Sara A. Fairchild in Support of Reply to Motion Regarding  
 20 Sealing ¶ 2. No one filed a response.

21 To maintain the documents under seal, any party to the NDAs who wished to  
 22 keep the documents under seal needed to provide "compelling reasons" for doing so.  
 23 *See* ECF No. 49 at 4-5; *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,

1 1099, 1101 (9th Cir. 2016). None of the parties to the NDAs has raised *any* reason  
2 to maintain the documents under seal, much less a compelling one. The information  
3 in those documents is central to Defendants' defense that the flyer is true, *see* ECF  
4 No. 38 at 7, and supports Defendants' Response to Plaintiff's Motion to Dismiss  
5 Under 41(a)(2), *see* ECF No. 49 at 5. The "strong presumption" in favor of public  
6 access to court records requires the Court to unseal the documents. *See Kamakana*  
7 *v. City & County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006).

8 For these reasons, Defendants respectfully request the Court unseal ECF Nos.  
9 51, 51-1, 51-2, 51-3, 51-4, 51-5, 51-6, or allow Defendants to file these documents  
10 in the public record.

11 DATED this 29th day of May, 2024.

12 Attorneys for Defendants

13 By: s/ Sara A. Fairchild  
14 Ambika Kumar, WSBA #38237  
15 Sara A. Fairchild, WSBA #54419  
16 DAVIS WRIGHT TREMAINE LLP  
17 920 Fifth Avenue, Suite 3300  
18 Seattle, WA 98104-1610  
19 Telephone: (206) 622-3150  
20 Fax: (206) 757-7700  
21 [ambikakumar@dwt.com](mailto:ambikakumar@dwt.com)  
22 [sarafairchild@dwt.com](mailto:sarafairchild@dwt.com)

23 John A. DiLorenzo (*pro hac vice*)  
DAVIS WRIGHT TREMAINE LLP  
1300 S.W. Fifth Avenue, Suite 2400  
Portland, OR 97201  
Telephone: (503) 241-2300  
Fax: (503) 778-5299  
[johndilorenzo@dwt.com](mailto:johndilorenzo@dwt.com)

## **CERTIFICATE OF SERVICE**

I hereby certify that on May 29, 2024, I caused the document to which this certificate is attached to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Aaron Streepy  
Jim McGuinness  
**STREEPY LAW, PLLC**  
4218 227<sup>th</sup> Ave Ct. East  
Buckley, WA 98321  
[aaron@mcguinnessstreepy.com](mailto:aaron@mcguinnessstreepy.com)  
[jim@mcguinnessstreepy.com](mailto:jim@mcguinnessstreepy.com)

*Attorneys for Plaintiff Faye Guenther and United Food and Commercial Workers Union Local 3000*

I further certify that on the same date, I caused the same document to be served by email and mail to the following:

Bill Gilbert  
Gilbert Law Firm, P.S.  
421 W. Riverside, Ste 353  
Spokane, WA 99201  
[bill@wagilbert.com](mailto:bill@wagilbert.com)  
*Attorney for Eric Renner*

David W. Ballew  
Reid, Ballew, Leahy & Holland L.L.P.  
100 West Harrison Street  
North Tower, Suite 300  
Seattle, WA 98119  
[david@rmbllaw.com](mailto:david@rmbllaw.com)  
*Counsel for Teamsters Local 690*

Adam Jackson  
636 East Magnesium Road  
Apartment 353  
Spokane, WA 99208  
[Adamyjackson1@gmail.com](mailto:Adamyjackson1@gmail.com)

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MOTION REGARDING SEALING  
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Davis Wright Tremaine LLP  
LAW OFFICES  
920 Fifth Avenue, Suite 3300  
Seattle, WA 98104-1610  
206.622.3150 main • 206.757.7700 fax

1 Leslie Cowin  
2 18901 East Buckeye Avenue  
3 Spokane Valley, WA 99022  
4 Leslie-64@hotmail.com

5  
6 Katie Dugger  
7 7004 East Tenth Avenue  
8 Spokane Valley, WA 99212  
9 Dugger38@gmail.com

10  
11 Amy Poston  
12 10124 East Walton Court  
13 Spokane, WA 99206  
14 amieree@gmail.com

15  
16 Austin Depaolo  
17 411 Northwest Flanders Street  
18 Apartment 409  
19 Portland, OR 97209  
20 Austin\_glass@msn.com

21  
22 Sandra Huggins  
23 28311 North Selkirk View Drive  
Chattaroy, WA 99003  
Sandrah217@gmail.com

24  
25 Laurel Fish  
26 3614 West Alice Avenue  
27 Spokane, WA 9920  
28 Laurel.fish@gmail.com

29  
30 Alex Garcia  
31 1503 South Rockwood Blvd  
32 Spokane, WA 99203  
33 Ajgarcia2147@gmail.com

34 I declare under penalty of perjury that the foregoing is true and accurate.

35 DATED this 29th day of May, 2024.

36 By: s/Sara A. Fairchild

37 Sara A. Fairchild, WSBA #54419